

REMARKS

In the amendments above, Claims 1-8, 11, and 12 have been cancelled, Claims 9 and 10 have been amended, and Claim 13 has been added, to more particularly point out and distinctly claim the invention. New Claim 13 has been added to claim the synergistic effect of all three herbs in increasing blood count of a patient.

Claims 9 and 10 and the disclosure were objected to, and Claims 9 and 10 were rejected under 35 U.S.C. § 112, second paragraph. The Examiner's attention is directed to the amendments above, where the amendments to Claims 9 and 10 and the specification are believed to overcome these objections and rejection.

Claim 9 has been rejected under 35 U.S.C § 103(a) as being unpatentable over Ha et al. (Ha et al., A laboratory study on *Astragalus membranaceus* mistura in the prophylaxis and treatment of myelosuppression caused by cancer chemotherapy, Journal of China Medical University (Oct. 1997) Vol. 26, No 5, pp. 449-453, 462) ("Ha") in view of Ghosh et al. (Ghosh et al; Physiological potential of beta-carotene in prolonging the survival of the host bearing transplantable murine lymphoma, Planta Med 61 (1995) 317-320) ("Ghosh").

Applicant respectively traverses this rejection.

With regard to Claim 9, although Ha studied the influence of *Astragalus membranaceus* on cancer patients going through chemotherapy and Ghosh studied the influence of beta-carotene (not red beet), and both came to the conclusion on a certain effect of the material on the patients, there is no teaching or suggestion whatsoever to incorporate both materials together so as to achieve a synergistic effect as claimed in the present invention. One of ordinary skill in the art would not incorporate different materials together arbitrarily.

Claim 10 has been rejected under 35 U.S.C § 103(a) as being unpatentable over Kapadi et al., WO 02/079748 (“Kapadi”) in view of Ghosh.

Applicant respectfully traverses this rejection.

Although Kapadi mentions the influence of *Withania somniferum* on increasing the blood count of cancer patients going through chemotherapy and Ghosh studied the influence of beta-carotene (not red beet), neither indicates any synergistic effect of the herb they used with the another one. There is no teaching or suggestion whatsoever to incorporate two materials together so as to achieve a synergistic effect as claimed in the present invention. One of ordinary skill in the art would not incorporate different materials together arbitrarily.

New Claim 13 is directed to a method of increasing blood count of a patient using the synergistic effect of all three herbs.

Applicant submits that the claims above are now in condition for allowance, and that the rejections of the claims should be withdrawn. A prompt notice of allowance is respectively and earnestly solicited.

Respectfully submitted,

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